

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRENE KRISTAL, Individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MESOBLAST LIMITED, SILVIU ITESCU,
JOSH MUNTNER, and FRED GROSSMAN

Defendants.

CASE No.: 7:20-CV-08430-PMH

CLASS ACTION

Honorable Philip M. Halpern

~~**[PROPOSED]**~~ **ORDER APPROVING PLAN OF ALLOCATION**

WHEREAS, (i) Lead Plaintiff Frank Fayz and named plaintiff David Caudle (“Plaintiffs”), on behalf of themselves and the Settlement Class and (ii) defendant Mesoblast Limited (“Mesoblast” or the “Company”), and defendants Silviu Itescu, Josh Muntner, and Fred Grossman (collectively, the “Individual Defendants,” and, together with Mesoblast, the “Defendants” and together with Plaintiffs, the “Parties”) have entered into a Stipulation and Agreement of Settlement dated March 28, 2022 (the “Stipulation”) (ECF No. 70), that provides for a complete dismissal with prejudice of the claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, this Order Approving Plan of Allocation incorporates by reference the definitions in the Stipulation, and, unless otherwise defined herein, all capitalized terms used, but not defined herein, shall have the same meanings as in the Stipulation; and this Court’s April 8,

2022 Order Preliminarily Approving Proposed Settlement (the “Preliminary Approval Order”) (ECF No. 75);

WHEREAS, in the Preliminary Approval Order, this Court: (a) preliminarily certified the Settlement Class solely for the purposes of effectuating the Settlement; (b) preliminarily approved the Settlement; (c) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members (d) provided Settlement Class Members with the opportunity to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been provided to the Settlement Class;

WHEREAS, this Court conducted a hearing on August 15, 2022 (the “Final Approval Hearing”) to consider, among other things, whether to approve the Plan of Allocation; and

WHEREAS, this Court, having considered all papers filed and proceedings held herein, all oral and written comments received regarding the proposed Settlement and the record in the Action, and otherwise being fully informed in the premises and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction: (i) to enter this Order approving Plan of Allocation; and (ii) over the subject matter of the Action, all matters relating to the Settlement, and over all parties to the Action, including all Settlement Class Members.
2. The Court hereby finds and concludes that the formula for the calculation of the claims of Authorized Claimants which is set forth in the Notice of: (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (ECF No. 81-1, Exh. C) (the “Long Notice”) disseminated to Settlement

Class Members, provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the Stipulation among Settlement Class Members, with due consideration having been given to administrative convenience and necessity.

3. This Court hereby finds and concludes that the Plan of Allocation set forth in the Long Notice is, in all respects, fair, reasonable and adequate, and the Court hereby approves the Plan of Allocation.

SO ORDERED this 15th day of August, 2022.



HONORABLE PHILIP M. HALPERN
UNITED STATES DISTRICT JUDGE